

ORIGINAL

EXCEPTION
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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

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AZ CORP COMMISSION
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IN THE MATTER OF THE APPLICATION
OF UTILITY SOURCE, LLC, AN ARIZONA
CORPORATION, FOR A
DETERMINATION OF THE FAIR VALUE
OF ITS UTILITY PLANTS AND PROPERTY
AND FOR INCREASES IN ITS CHARGES
FOR UTILITY SERVICE BASED
THEREON.

DOCKET NO. WS-04235A-13-0331

**NIELSEN FILING OF EXCEPTIONS TO
RECOMMENDED ORDER AND
OPINION**

Erik A. Nielsen (Intervenor) hereby files exceptions to the ACC Recommended Order and Opinion (ROO) in the matter of Utility Source LLC (hereafter US or the Company) application for a rate increase.

Introduction

How is it possible that the ACC approved a rate increase for a small utility water division of 114.83 percent and wastewater division of 114 percent for the median use customer in the 2008 ACC Decision #76140 and within 5 years issue the current ROO that recommends a water increase of an additional 91.38 percent and a wastewater increase of 204 percent for the median use customer? How is it possible that the Commission, faced with overwhelming evidence of lower operational costs, excess capacity, prior unaccounted contributions from customers, unauthorized standpipe operations, numerous violations of ACC and state of AZ rules and regulations, and significant customer hardship, would issue the present ROO concluding that these proposed increases are "just and reasonable" and in the public interest?

Among the primary reasons for why these rate increases must be considered by the Commission as inappropriate, unjust and unreasonable are as follows:

- 1) Utility Source's behavior was characterized by the ACC decision #67446 as "the Company's actions, as detailed in the record of this proceeding, constitute one of the most egregious examples of unauthorized preemptory operations ever confronted by the Commission". The record of the Company before the ACC suggests that inappropriate, unlawful and obfuscating behavior have continued through the present rate case. The lack of disclosure, transparency, and unwillingness to produce supporting documentation for plant in service and operational costs impeded the Commission's ability to ascertain the fair value of the property. Throughout these proceedings the Company refused or claimed it could not respond to intervenor and ACC staff data requests necessary for the determination of reasonable operational costs and plant in service. The record in this case clearly demonstrates the Company's violation of Article 15 section 14 of the AZ Constitution.
- 2) Unrecorded CAIC from hook-up fees that the record in this case demonstrates were collected prior to Utility Source becoming a public service corporation such that customers are being charged for plant in service for which they have already paid.
- 3) Errors in the ROO that suggest a disconnected active wastewater plant with a capital cost of \$330,000 is used and useful rather than excess capacity that it clearly represents.
- 4) Overvaluation of land for the water and wastewater divisions that has no basis in fact and allowing the Company's estimates of land values for lands it does not, and has never, owned.
- 5) Refusal of the ROO to include significant revenue and minimal costs from an unauthorized standpipe operation and allow the company to over earn on its already unjust and excessive revenue requirement.

The AZ constitution and previous AZ Supreme court decisions are clear on the role of the ACC and publicly regulated corporations. The ACC is required to ascertain the fair value of

1 the property and corporations shall furnish to the commission all evidence necessary to aid in
2 that determination. In the present case, the ROO clearly demonstrates the inability of the
3 Commission to make this determination. Davis v Corporation Commission (1964) stated that a
4 “monopoly is tolerated only because it is to be subject to vigilant and continuous regulation by
5 the Corporation Commission” and in that decision the Supreme court concluded that “the
6 public interest is always the thing to which this Commission must give first consideration”. The
7 proposed rate increases in the ROO do not even speak to the public interest but rather the
8 interests of the Company and perversely puts the burden of proof on intervenors rather than on
9 the Company that is required to furnish all evidence to substantiate the operational costs and
10 value of plant in service.

11 I make exceptions with the following specific findings and opinions expressed in the
12 ROO.

13 **Standpipe Operation**

14 The ROO fails to address that the Company’s construction and operation of the
15 standpipe was unauthorized and was not disclosed to the ACC staff in its initial rate
16 application. Only through customer comments on the proposed rate increase was this issue
17 brought to the attention of the ACC Staff. Additionally the ROO does not acknowledge that the
18 Company obfuscated relevant information related to the standpipe deliberations until
19 intervenors provided clear evidence of the Company projections of volume and sales.
20 Furthermore the ROO does not acknowledge that the Company is under a standing data request
21 from RUCO to disclose standpipe revenue to ACC Staff for all months preceding the issuance
22 of the ROO and to date the Company has not reported those sales for the past 4 or 5 months
23 thus impeding deliberation on this important matter. Clearly the ALJ, RUCO and the ACC
24 staff recognize that addressing this standpipe operation is important “given the significant
25 amount of revenue at stake” (Staff closing brief at 8). A conservative estimate of this revenue at
26 standpipe rates authorized in the ROO produce a significant source of revenue for the company,
27 an annual revenue of approximately \$72,000 or 18.7% percent overearning on the revenue
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1 requirement for the water division while using infrastructure (e.g.wells and tanks) paid for by
2 the customers. While it is noteworthy that the ROO requires biannual reporting by the
3 Company what is less clear this reporting requirement will be enforced. If the past behavior on
4 just this issue is prologue, the Company will not comply with the reporting requirements of this
5 order.

6 Given that both ACC Staff, RUCO and the ALJ all attempted to develop mechanisms
7 by which this standpipe revenue could be incorporated into the current rate case it is
8 disappointing that the resolution proposed in the ROO is do nothing. One of the major reasons
9 for this decision cited in the ROO is that there is a lack of data regarding standpipe sales,
10 revenues and operating costs. The reason for this lack of data is not for want of effort but from
11 the Company not providing the data necessary to make a determination. The Commission
12 should modify the ROO to incorporate RUCO's provision that any over earning would be
13 refunded to customers in the next rate case. The result of the ROO's treatment otherwise
14 rewards the Company for not following ACC rules and further increases the burden of water
15 infrastructure costs onto customers.

16 **Contributions in Aid of Construction**

17 The ROO errs in its discussion and analysis of this matter. Below are the undisputed
18 facts on record in this case:

- 19 1) The Company collected \$2,800 in hook-up fees from each customer prior to
20 oversight from the Corporation Commission (see Nielsen Direct Testimony and
21 Exhibit #2). I submitted two Property reports that conclusively demonstrate these
22 fees were paid by homeowners when they purchased their lot.
- 23 2) These hook-up fees were charged prior to the ACC stop service order when they
24 were already servicing 201 residential customers and had likely sold all of the 326
25 lots in the subdivisions and thus collected hookup fees from all residences served by
26 the Company.

- 1 3) The Company was prohibited from collecting hook-up fees by the 2008 order
2 #70140 and yet they collected hookup fees in 2014 from the only residence built in
3 the subdivision since that time.
- 4 4) The ROO rightly recognizes Mr. McCleve's affirmation that the Company was
5 collecting hook-up fees prior to oversight from the ACC however it relies on Mr.
6 McCleve's word that "certainly everything was disclosed to the Commission when
7 the original decision was granted".
- 8 5) The Company's original CC&N application WS-04235A-04-0073 included
9 schedules with revenue from customer hookup fees (\$215,000 for water and
10 \$387,000 for wastewater) as well as mutually exclusive AIAC from developers.
11 The AIAC amounts carried over into the subsequent rate case WS-04235A-06-
12 03036 and ACC staff reclassified these as CIAC however the hook up fees
13 disappeared mysteriously and have not been carried over into the present case.
14 There is nothing in the record of WS-04235A-06-03036 indicating ACC staff even
15 addressed hook-up fees (Exhibit 1 details the facts as extracted from official ACC
16 documents)
- 17 6) At the time the ACC ordered the Company to stop service they were serving at least
18 201 residential customers and had possibly collected fees from all lots sold at that
19 time, I imputed between \$201,000 and \$326,000 for the water division and \$361,00
20 to \$586,000 for the wastewater division (see Nielsen Direct Testimony pp-12-13)
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22 The ROO concludes that imputing any CAIC from previously collected hook up fees is
23 too "speculative" and that "there is no evidence documenting the amount of hook-up fee, if
24 any, not recognized as CAIC in previous Decisions". As is clearly demonstrated in the above
25 facts this conclusion is clearly in error. The overwhelming evidence in this case supports
26 imputing at least \$201,000 for the water and \$361,000 for the wastewater divisions
27 respectfully. I made numerous data requests from the Company to document what happened to
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1 the hook up fees that Mr. McCleve admitted were collected but they declined the data request
2 saying they did not have this data. To take the word of the Company that these were disclosed
3 to the ACC in the absence of any evidence is an abdication of responsibility on the part of the
4 ACC to fully determine the investments of the Company in the plant in service.

5 Failure to include these imputed and undisputed contributions from customers runs
6 counter to AZ court guidance in Cogent v ACC (1984). This decision cites *State ex rel. Valley*
7 *Sewage Co. v. Public Service Commission*, 515 S.W.2d 845, 851 (Mo.App.1974) that states “to
8 force the customers and users of a utility to pay rates predicated upon the value of a facility
9 which they themselves substantially paid for . . . is the antithesis of a just and reasonable rate.
10 Conversely, where the customers and users of a utility have substantially paid for the facilities
11 employed in the public service, the antithesis of a just and reasonable rate is one that would
12 permit a utility's stockholders to recover a return on money which they, in fact, never invested.”

13 The AZ Appellate court decision in Cogent concludes that “a public service commission
14 may properly balance the interests of the utility and its customers by recognizing the inherent
15 unfairness in requiring a customer to pay a return on an investment to a utility which was made
16 by the customer himself.”

17 Given the facts in this case, the Company's inability and unwillingness to disclose what
18 happened to the hook-up fees through discovery (again violating the AZ Constitution and AZ
19 Admin Code R14-2-411D), and clear guidance from the courts, the Commission should correct
20 the errors in the ROO and impute at least \$562,000 in the hook-up fees collected by the
21 Company as CAIC.

22 **Land Values**

23 The ROO incorrectly suggests that the adjustments I proposed to the land values were
24 based on my opinion as to real estate values at the time of their acquisition by the Company and
25 that the evidence provided in this case does not support disturbing Commission's prior
26 determination of fair value. The adjustments I proposed to land values from \$210,000 to
27 \$66,895 for the water division and from \$105,000 to \$30,477 for the wastewater division were
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1 not based on opinion but rather actual sales records obtained from Coconino County and the
2 actual lands used to deliver water and waste water services as presented in exhibits 14 and 15
3 of my hearing testimony. These are the original costs to the owners upon which they are
4 entitled to a fair return. I made numerous data requests to obtain the documentation from the
5 company to substantiate the original costs of these lands but the Company was unable or
6 unwilling to provide the required documentation. To suggest that previous decisions actually
7 reviewed any documentation of land values is speculative at best given the fact that many of
8 these lands have never been and were not under the ownership of the Company at the time of
9 ACC decision #70140 (see Nielsen exhibit 1.A). The ROO also fails to mention this fact that
10 many of the land parcels claimed to provide services to customers are not even legally owned
11 by Utility source and are currently owned by Fuelco (clearly in violation of ACC Decision
12 67446 granting CC&N to the company and ordering the consolidation of all assets under Utility
13 Source ownership). Under oath Mr. McCleve affirmed that Fuelco was the owner of these
14 parcels. These lands owned by Fuelco include the lands for deep well #1, deep well #3 and
15 Shallow Wells 1-5 (See Nielsen Direct Testimony, Exhibit 1.A). Furthermore Mr. McCleve's
16 rebuttal testimony acknowledges that the company will rectify any discrepancies that were not
17 previously resolved regarding plant in service not currently owned by the Company yet to date
18 the Company has not rectified these discrepancies despite having over one year since I raised
19 this issue in my Direct Testimony (a continuing violation of AC Decision 67446). The
20 Company's inability and unwillingness to provide evidence of these land values violates AZ
21 administrative code R-14-2-411D and title 13 article 4 of the Arizona Constitution.

22 Given these facts regarding lands and land values the Commission should make the
23 reasonable adjustments to land values of the water and wastewater divisions as detailed above.
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1 **Inactive Wastewater Treatment Plant (Excess Capacity/Used and Useful)**

2 The ROO concludes that the wastewater system benefits from the use of the inactive
3 treatment plant for sludge drying and storage. I do not dispute this point however the
4 Commission needs to ask if the customers benefit from the use of a \$333,500 inactive treatment
5 plant instead of just paying additional sludge hauling costs. For example, in the test year the
6 Company paid approximately \$12,659 for sludge hauling costs. They claimed that using the
7 inactive treatment plant to store sludge saves thousands in operational costs, without
8 documentation, and therefore is used and useful. Even if the company would need to pay
9 double, an additional \$12,000 per year, to haul wetter sludge that was not stored in this facility
10 it would be considerably less than the 10% return on capital annually charged to customers for
11 this inactive plant. Thus the ROO allows the Company to recover costs of excess capacity and
12 imprudent investment decisions at the expense of ratepayers.

13 The ACC staff engineer testified that the active sewage treatment plant should be able
14 to operate without this additional inactive unit being used as sludge storage. Clearly this
15 inactive wastewater treatment plant represents excess capacity the Company installed in
16 anticipation of additional residential units. The ROOs logic in concluding that an inactive plant
17 that has been disconnected and is not being used for the purposes for which it was designed but
18 yet declared used and useful would lead to the absurd conclusion that for example, the expenses
19 of a disconnected Four Corners coal unit should be declared used and useful if APS were using
20 it to store excess coal. Yes it is used and useful but clearly not a prudent investment and leads
21 to an unreasonable burden on the ratepayers.

22 Clearly the ROO's conclusion is not a reasonable and it is prejudicial to the ratepayers
23 for an imprudent investment made by the investor owners. In Arizona Corporation Commission
24 v. Arizona Water Co., 85 Ariz. 198, 335 P.2d 412 (1959) the court asserted that "in determining
25 fair value, the Commission ought to consider the physical condition of the properties, what is
26 actually used and useful, and the **practical effects of particular business practices.**"
27 [emphasis added]. In this case the practical effects of this business practice are to inflate the
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1 rate base and the annual revenue requirement and putting the risk and cost of the Company's
2 poor investment or excess capacity for anticipated future customers and capacity on the
3 ratepayers. The inclusion of this expensive storage tank is both unreasonable and unjust and
4 the \$333,500 inactive treatment plant should be removed from the rate base in the revision to
5 the ROO.

6 **Operating Income Adjustments**

7 **Office and Office expenses**

8 The ROO properly concludes that the Company's office and office resources (human
9 resources and materials) are shared between other entities controlled by the owner and the
10 sharing is more than incidental as claimed by the Company. The ROO fails to acknowledge that
11 the Company failed to disclose these shared operations to RUCO and my data requests and
12 only responded incompletely to a follow up ACC staff request regarding this matter. The ROO
13 also fails to describe the extent of this comingling of operations in this office space. Six
14 companies registered with the ACC list a shared physical address with Utility Source. An
15 additional three companies with Mr. McCleve as principle manager list the Utility Source
16 address. Finally an additional company lists the Agent at this address. Overall 10 discrete
17 companies are documented as sharing the Utility Source address (See Nielsen Surrebuttal
18 Testimony exhibit 3). However rather than making the adjustments that I proposed based on a
19 reasonable proportional allocation of expenses, the ROO arbitrarily assigns only 20 percent of
20 the claimed office expenses to these other entities. The ROO provides no logic or data to
21 support this arbitrary assignment. At the most Utility Source should be allowed to claim 50% of
22 these expenses. The ROO should be modified to reflect this more reasonable allocation. To
23 attribute 80% of these shared office expenses to Utility Source Customers is arbitrary, unjust
24 and unreasonable.

1 **Rent Expenses**

2 The ROO errs again in its calculation and treatment of rent expenses. Because the
3 company did not submit a rent expense and filed an inappropriate payment of SRP payments
4 for Mr. McCleve's personal home of over \$12,000 in lieu of rent. Not only was this filing
5 inappropriate but it was illegal.

6 ACC staff and the ROO accommodated the Company by developing an estimate of
7 needed office space for the company operations. The calculations proposed in the ROO are
8 incorrect. ACC staff calculated Utility Source would need an office space of approximately
9 1000 square feet to accommodate approximately 5 employees at \$16 per square foot. However
10 the assumption of 5 employees was never substantiated and is unjust and unreasonable.

11 The facts are that Utility Source has two owners, one book keeper and one water and
12 wastewater manager. One owner, Mr. Buelchek, and the water/wastewater manager live in
13 Bellemont and therefore do not work in the Queen Creek office and presumably deduct home
14 office space from their taxes. Only two people, Ms. Perry, the bookkeeper/accountant, and Mr.
15 McCleve, the primary owner, work out of the Queen Creek office. Based on a more reasonable
16 estimation of office space for two workers using GSA standards yields 436 square feet of
17 rentable space. At \$16 per Sq. Ft. would yield a rental expense of \$6,976. Taking 50% of this
18 attributed to Utility Source would yield a less arbitrary (20% paid by shared entities) and more
19 accurate estimate of rental expenses of \$3,488. This figure should be adopted by the
20 Commission.

21 **Contractual Services—Accounting Expenses**

22 Using the same logic that is unsubstantiated in fact the ROO allocates 80% of Ms.
23 Perry's salary to Utility Source customers. Ms. Perry, the contractual bookkeeper, does not
24 keep a time card for the Company and therefore there is no actual record of time dedicated to
25 Utility Source or to her other responsibilities as the Secretary for the Pecans HOA and as an
26 agent for another company, Strategic Funding VII, LP. It is reasonable to assume that billing
27 and collecting workload for an HOA is similar to that of the Utility Source work. For these
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1 reasons the Commission should modify the ROO to allow \$16,250 for these services. Requiring
2 Utility Source customers to pay for labor dedicated to non-Utility Source operations is
3 unreasonable and unjust.

4 **Misc. Expenses—Telephone Expenses**

5 The ROO clearly acknowledges that it was inappropriate for the Company to submit
6 misc. expenses that included cell phone bills for non-utility Source employees or owners, Mr.
7 McCleve's wife and daughter to be precise, for a grand total of \$13,005. Clearly they were
8 loading the books with unreasonable misc. expenses. However again using the faulty logic of a
9 20 percent assignment of costs to comingled companies when my testimony clearly showed
10 utility source phone numbers listed as points of contact for the Pecans HOA and other entities,
11 my proposed allowances of \$2,298.22 are based on more reasoned distribution of these costs.
12 This cost includes 100% of the water manager cell phone, 50% of Mr. Perry's cell phone,
13 100% of the toll free line, and 20 percent for the cell phones of the owners Mr. McCleve and
14 Mr. Buelchck. To suggest that the customers pay for 80% phones used for other business
15 purposes is both unreasonable and unjust.

16 **Copier and office supplies**

17 The ROO correctly recognizes the comingled operations in the Company office space
18 however the attribution of 80% of costs to Utility Source Customers is arbitrary, unreasonable
19 and unjust. I proposed a proportional allocation of the copier between all of the entities for a
20 \$678 Utility Source copier expense and a 50 percent allocation of office supplies for \$596. The
21 ROO should be modified to reflect these more reasonable allocation of expenses. The ROO
22 should also require the company to keep a log of copies and supplies used by each of the
23 entities sharing the office space.

24 **Automobile Expense**

25 The ROO goes out of its way to justify automobile expenses that were never
26 supported by the Company with any evidence. The Company's original filing of \$6,000 was
27 clearly inflated. ACC Staff allocates mileage for six round trips to Bellemont from Queen
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1 Creek each year which the Company never substantiated through data requests and it also fails
2 to recognize that Ms. Perry may also be combining work with other entities in the office for her
3 errands. No one in the community of Bellemont I have spoken to has never seen Ms. Perry on
4 business in Bellemont so any mileage to drive to here is clearly arbitrary and not grounded in
5 fact. Customers deal with Ms. Perry for customer service and billing questions over the phone
6 not in person. My proposed allocation of 40 miles per week or \$1,085 annually for Company
7 errands appears reasonable given the bookkeeping work (two trips to the bank and post office
8 per week) and the ROO should be modified to incorporate this more reasonable estimate.
9 Finally the Commission should order the Company to keep a mileage log for Ms. Perry to
10 substantiate Utility Source expenses and separate those from other duties she performs for the
11 owners.

12 **Impact of Unreasonable operational expenses in the ROO**

13 The difference between the ROO's authorized operational expenses and those based on
14 the principle of proportionality and actual expenses are approximately \$32,074 per year in
15 operational expenses. This represents approximately \$100 per year per customer served by
16 Utility Source in excess expenses. My proposed changes to the allowed operational expenses
17 produce expenses that parallel what the community is charged to manage our Bellemont HOA
18 that has similar duties of accounting, billing, and bill payment and thus the Commission should
19 see these adjustments as reasonable and modify the ROO accordingly.

20 **Other Issues—Best Management Practices**

21 Given the situation of drought, groundwater shortages and general water scarcity in
22 Northern Arizona, the ROOs recommendation that BMPs not be required is an abdication of
23 duty to conserve Arizona's most precious resource, water. The assertion in the ROO that BMPs
24 are not in the public interest appears to define the public interest as Utility Source interest.
25 There is not clearer action in the public interest than promoting water conservation. Staffs
26 recommended BMPs would require little time or money on the part of Utility Source. The BMP
27 implementation would not harm ratepayers and these costs would be recoverable in the next
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1 rate case so the Company would not be adversely affected. Aside from an unfounded objection
2 by the Company to regulations in general (See McCleve hearing testimony) there is no reason
3 not to require the company to select at least five BMPs. The ROO should therefore be
4 modified to require BMPs in the public interest and not in the Company's interest.

5 **Penalties and Sanctions**

6 The ROO declines to lodge penalties and sanctions against the Company even though
7 throughout the ROO the Commission acknowledges inappropriate actions by the Company.
8 The non-compliance issues I raised through these proceedings are all well documented. While
9 Staff may not have recorded any delinquent compliance issues for the Company on record, as
10 part of this rate case Staff was made aware of the following non-compliance issues and has
11 chosen to remain silent on them:

- 12 1) Violation of ACC order to consolidate all utility plant to Utility Source
13 ownership and subsequent submissions certifying compliance with decision
14 67446 when in fact the Company had not complied with the order. To this day
15 the Company remains out of compliance with the order even though they were
16 notified on September 2, 2014 in Nielsen's Direct Testimony that they were out
17 of compliance with ACC order (A.R.S. 40-202(L)). The Commission should
18 require the transfer of Fuelco LLC owned utility plant into Utility Source
19 ownership as was required by an ACC order in Decision 67446. The Company
20 should provide the ACC with a letter from Coconino County that the deed
21 transfers have been accepted with 120 days of
- 22 2) Violation of ACC order in Decision 67446 that prohibited the Company from
23 charging customers hookup fees for water and wastewater service (A.R.S. 40-
24 202(L)).
- 25 3) Unauthorized expansion of CC&N to provide water service to mobile home park
26 on nearby but not contiguous parcel to authorized CC&N (A.A.C. R14-2-
27 402E.1)

- 4) Unauthorized construction of standpipe to serve customers outside CC&N area and compete directly with nearby ACC authorized standpipe operation, Bellemont Water.
- 5) Violations of rule requiring notification of system outages/interruption in service to ACC for hydrant pressure and community water system (R14-2-407D.5)
- 6) Multiple violations of public safety requirements for minimal operating system conditions with hydrant pressure (R14-2-407(E)).
- 7) Inaccurate and misleading Testimony in original ACC CC&N case regarding company knowledge of ACC authority for provision of public water and sewer system (Nielsen Direct Testimony, p. 4-6)
- 8) Inaccurate disclosures to Nielsen and ACC data requests regarding standpipe operation (Nielsen Direct Testimony p.9) (ARS 40-204A and B)
- 9) Failure to submit main extension agreements as per A.A.C. R14-2-406M for system expansion constructed by Empire companies for Flagstaff Meadows Unit III, Phase I without any main extension agreement filed with ACC.
- 10) Noncompliance with ADWR statute for Deep Well #4 requirements to file drillers report and well log (A.R.S. 45-600)
- 11) Violations of ADWR disclosure of proposed uses of DW 1 and #2 (A.R.S. 45-596C.7) under Article 12, ARS 45-631 to ARS 45-636.
- 12) Sanctions for dispensing bulk water for consumption without ADEQ permits. ACC Staff engineer testified that dispensing bulk water for consumption would require ADEQ permit as well as backflow checks.
- 13) Failure to maintain accounts and records as required by A.A.C. R14-2-411(d.1) and the provision of those to the ACC as per A.A.C. R14-2-411(d.3) for valuation of shallow wells, land values for water and wastewater plant, and records to reconcile listed CIAC and expenses for distribution system (ARS 40-204A and B). The Commission should require an independent audit of the

1 Company going back to the granting of the CC&N to obtain actual
2 documentation that substantiates plant in service.

3 14) Inappropriate, unlawful and unreasonable inclusion of personal phone bills,
4 personal home utility bills, and shared operational expenses as inauthentic
5 information on the Company's accounts and submitted as legitimate operational
6 expenses for the purpose of determining the Company revenue requirement
7 (A.A.C. R14-2-411D).

8 15) Inappropriate leveraging monopoly power to obtain public customer support for
9 Company actions that would benefit the company principles and not necessarily
10 in the public interest (Nielsen Direct Testimony p.8-9).

11 It is unfathomable that the ROO ignores the above actions of the Company. These
12 actions have impeded the Commission's proper discharge of its duties under Article 15, Section
13 14 of the Arizona Constitution and the requirement of public service corporations to provide all
14 assistance in its power with "complete and authentic information as to its properties and
15 operations" (A.A.C R14-2-411D) A.R.S 40-202B and A.R.S 40-204. Basically the failure to
16 lodge sanctions for violations of the constitution, Arizona Utility Statutes and ACC rules in
17 ROO suggests that Public Service Corporations are no longer subject to the regulatory bargain.
18 The assertion by the Arizona Supreme Court that "The monopoly is tolerated only because it is
19 to be subject to vigilant and continuous regulation by the Corporation Commission" Davis v.
20 Corporation Commission, 96 Ariz. 215 393 P.2d 909 (1964), no longer holds if the ACC does
21 not enforce its own rules and regulations and duties under the constitution.

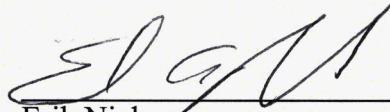
22 The Commission should reconsider the documented violations above and lodge
23 sanctions against the Company for inappropriate behavior inconsistent with the obligations as a
24 public service company.
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1 **Balancing the consumer interest with the public service corporation interests**

2 The ROO claims that the proposed water rate increase of an 91.38% and a wastewater
3 increase of 204% for the median use customer is just, reasonable, and in the public interest
4 even when it follows on the 2008 ACC approved a rate increase of 114.83% for the water
5 division and 114% for the wastewater division for the median use customer in the 2008 ACC
6 Decision #76140. The ROO fails to address any of the hardship concerns raised by public
7 comments and there is no indication that the public interest, and what is reasonable for
8 ratepayers, were ever even taken into consideration in the Cost of Capital recommendation or
9 the allowed expenses and questionable plant-in-service. The ROO is silent on these matters and
10 does not address the rate shock that families will suffer as a result.

11 As early as 1906 the Arizona Supreme Courts has held that "effect of the rate upon
12 persons to whom [utility] services are rendered is as deep a concern in the fixing thereof as is
13 the effect upon the stockholders or bondholders." Salt River Valley Canal Co. v. Nelssen, 10
14 Ariz. 9, 13, 85 P. 117, 119 (1906). The US Supreme Court echoes this sentiment that "The
15 public cannot properly be subjected to unreasonable rates in order simply that stockholders may
16 earn dividends Covington etc. Turnpike Company v. Sandford, 164 U.S. 578, 596, 17 Sup. Ct.
17 198, 205, 41 L. Ed. 560". It is axiomatic that a just and reasonable utility rate is a bilateral
18 proposition serving both the company and consumer interests but this ROO only addresses the
19 needs of Utility Source to the exclusion of the consumer, ignores the documented hardship on
20 community members and thus undermines the well-established principle of just and reasonable
21 utility rate determination for consumers that serves the public interest. The Commission should
22 reevaluate the ROO and examine the questionable adjustments, unfounded capital and
23 operational costs, undeclared hookup fees as CAIC, and the Cost of Capital to develop water
24 and wastewater rates that are just and reasonable for consumers and the Company and in the
25 public interest.
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1 RESPECTFULLY SUBMITTED this 1st day of September, 2015.

2
3 
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7 Bellemont, Arizona 85015

8 **Original and thirteen (13) copies of**
9 **the foregoing filed this 1st day of**
10 **September, 2015, with:**

11 Docket Control
12 Arizona Corporation Commission
13 1200 West Washington Street
14 Phoenix, Arizona 85007

15 **Copy of the foregoing mailed this**
16 **1st day of September, 2015, to:**

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Exhibit 1—Evidence of Missing CAIC in ACC Documents

Utility Source Evolving CAIC/AIAC/Hook up fees	2004 initial CC&N Application (January 2004)	2004 revised application (August 2004)	2006 initial rate application	2007 initial rate decision	2013 amended rate application
Docket	WS-04235A-04-0073	WS-04235A-04-0073	WS-04235A-06-0303	WS-04235A-06-0303	WS-04235A-13-0331
Document	Application	Revised schedules	Application	Decision	application
Document number	7019	10984	49183		150715
Number of customers when ordered to stop hooking up cu	201				
Projected customer number by year end	289	289	337		
Water line extension agreements (2005)	\$ 267,950	\$ 267,950			
Wastewater line extension agreements (2005)	\$ 179,975	\$ 179,975			
AIAC water from Empire Builders			\$ 294,745		
AIAC sewer from Empire Builders			\$ 197,973		
AIAC reclassified as CAIC water from Developers				\$ 294,745	\$ 294,745
AIAC reclassified as CAIC sewer from Developers				\$ 197,973	\$ 197,973
Evidence of missing hook-up fees					
Water hook up fees (2005) (215 customers)	\$ 215,000	\$ 215,000	\$ -	\$ -	
Wastewater hook up fees (2005) (215 customers)	\$ 387,000	\$ 387,000	\$ -	\$ -	
Nielsen low estimate of water hook up fees collected Direct Testimony (201 residential customers)					\$ 201,000
Nielsen low estimate of sewer hook up fees collected Direct Testimony (201 residential customers)					\$ 361,000
Nielsen high estimate of water hook up fees (326 connections)					\$ 326,000
Nielsen high estimate of sewer hook up fees (326 connections)					\$ 586,800
Supporting evidence of origins of mutually exclusive declared CAIC values					
Schedule 8					
On site facilities					
331 transmission main (3638 lf)	\$ 147,200	\$ 147,200	\$ 147,200		
Service lines (150)	\$ 86,250	\$ 86,250	\$ 86,250		
Hydrants (15)	\$ 34,500	\$ 34,500	\$ 34,500		
Backflow prevention devices	\$ -	\$ -			
Subtotal	\$ 267,950	\$ 267,950	\$ 267,950		
10% supervision and legal			\$ 26,795		
Total			\$ 294,745		
Schedule 9					
On site facilities					
8" sewer line	\$ 101,200	\$ 101,200	\$ 101,200		
Manholes	\$ 18,400	\$ 18,400	\$ 18,400		
Sewer to lots (150)	\$ 60,375	\$ 60,375	\$ 60,375		
Subtotal	\$ 179,975	\$ 179,975	\$ 179,975		
10% company engineering, legal			\$ 17,998		
Total Advances			\$ 197,973		